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it is ripe, pays sufficient regard to the rights and interest of *both* parties, and is far preferable to that which forbids the levy, and so pre-

vents the lien from attaching, and enables the debtor to defraud the creditor of his just claims.

PHILADELPHIA.

R. D. S.

“RES ADJUDICATA.”

There seems to be a tendency to substitute the above words in the place of the classic “Res Judicata” of the same language.

The latter words have been consecrated by a precise meaning given to them by the great jurists since the classic period of the civil law.

Modestinus defines the term thus : “Res judicata dicitur quæ finem controversiarum pronuntiatione judicis accepit. Quod vel condemnatione vel absolutione contingit.”¹ In French it is called *la chose jugée*, and in English we improperly anglicize the “ad-judicata” and call it the thing adjudged, with the meaning that it is a judgment in a judicial controversy rendered by a Court of last resort, or in a case from which an appeal has ceased to be available and the judgment has come to import absolute verity between the parties.

The term *res adjudicata* is also known to the Roman law, but is applied only to a particular class of cases or to public sales of property.

There are in the civil law the three actions called the *judicia divisoria*, named *familiæ erciscundæ* (the partition of estates among heirs), *de communi dividundo* (partition of property held in common) and *finium regundorum*, the suit to settle controversies respecting boundaries between contiguous lands. In these actions the respective portions of the property to be divided are *ad-judicated* to the parties and their rights under the decree may be called *res adjudicatæ*.²

¹ Pandects, Liber 42, Tit. 1, Lex. 3. See also the Code, Lib. 7, Tit. 45, Const. 3.

² See Institutes of Justinian, Liber 4, Tit. 17, Secs. 6 and 7.

Goods (*bona addicuntur*) are adjudicated to the adjudicatee at judicial sales under the French and Louisiana law.¹

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New Orleans, La.

EDITORIAL NOTES.

By G. W. P.

The case of *O'Neil v. The State of Vermont*, which is criticized by a correspondent in this number of THE AMERICAN LAW REGISTER AND REVIEW, is a decision of great interest and importance. Many vital questions of constitutional law are discussed more or less elaborately by Mr. Justice BLATCHFORD, who delivers the opinion of the majority, by Mr. Justice FIELD, who files a dissenting opinion, and by Mr. Justice HARLAN, in whose separate dissenting opinion Mr. Justice BREWER concurs. But perhaps no aspect of the case is more interesting than that which it presents when considered as a decision relating to the Federal power over interstate commerce. An examination of the opinions reveals the fact that the Court is divided upon a comparatively simple question belonging to this all-important branch of our constitutional law; and it seems impossible to escape the conclusion that the tribunal which had but a short time ago settled this doctrine upon a satisfactory basis is once more at sea in regard to it, the views of the individual justices being well-nigh hopelessly at variance with one another.

¹ See Savigny, Vol. 6, Berlin Ed., 1847, p. 257, Sec. 280; also 4th Vol., p. 532. Merlin *Reportoire* verbiis "*adjudicataire et adjudication*," also verbiis "*Chose jugée*;" Mackledey, Brussels Ed., 1846, pp. 239 and 240, *Partie Speciale* Sec., 505. See the accurate definitions in Burrill's *Law Dictionary* of *adjudicatio* and *adjudication*. See *Res judicata*, Chapter 2, pp. 5 to 11 of Bigelow on *Estoppel*.